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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>ROWLAND & DOROTHY M. RETRUM,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 43632</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on August 30, 2005, Steffen Brown, Lyle Hansen, and Karen E. Hart presiding. Petitioners appeared pro se via teleconference. Respondent was represented by Jeannine Haag, Esq. via teleconference. Petitioners are protesting the 2004 classification of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**660 Freeland Court, Estes Park, Colorado
Larimer County Schedule No. 2519310013**

The subject property consists of a .30-acre vacant lot located in the Stanley Hills Subdivision in Estes Park, Colorado. There are no structures on the property.

FINDINGS OF FACT:

1. Petitioners stipulated to the 2004 actual value of the subject property as assigned by Respondent at \$127,900.00. Petitioners are requesting that the subject property be given a residential classification. The property is currently classified as vacant land.

2. Petitioners have owned the subject property (Lot 13) for 19 years and also own the contiguous lot, which contains their residence (Lot 14). They contend that the subject property is an integral part of the residential use of the contiguous lot for the following reasons:

- a. It is zoned residential and is used as part of their yard.
- b. They regularly tether their dog on the subject property.
- c. They removed bushes and weeds from the subject property, planted Ponderosa pines, and mow and water the grass as part of their yard using water from the residential parcel.
- d. The subject property provides the only access to the lower side entrance of the house, the manhole, and the back yard.
- e. The 24 windows on the south side of the house used for passive solar heat are shaded by Aspen trees; any house located within 10 feet would block the needed sunlight.
- f. There is an elk route across the subject property.

3. Petitioners have not platted Lots 13 and 14 into one lot, as the cost would be about \$3,000.00 to survey the properties and correct the plat. Also, they wish to keep the lots separate, as they may need to sell the subject property in the future.

4. Respondent's physical inspection of the subject property revealed that:

- a. The dog tether is located on the residential lot (Lot 14) and no areas worn down by the dog were evident on the subject property.
- b. Adequate access is available to the lower rear entrance of the house; the subject property does not provide the only access.
- c. The residential lot has adequate yard area.
- d. There is no indication that the subject property is associated with the residential lot; it appears to be just a vacant lot.
- e. The subject property's grass was not green; it did not appear to be watered much.
- f. The Aspen trees are located between the house and the dog stake and are within 5 feet of the house.

CONCLUSIONS OF LAW:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly classified for tax year 2004.

2. Respondent moved to dismiss the appeal as the subject property does not have a dwelling and therefore does not qualify for residential classification under Colorado Revised Statutes. The motion is denied. A property without a residential dwelling may qualify for residential classification if it meets certain criteria, as stated in *Sullivan v. Board of Equalization*, 971P.2d 675 (Colo. App. 1998).

3. However, the Board determined that the subject property does not meet the criteria for residential classification as set forth in *Sullivan v. Board of Equalization*. Petitioners admitted that they are keeping the parcel separate for possible sale. The parcel has no structural improvements, and does not appear to be associated with the improved parcel when viewed from the

does not appear to be associated with the improved parcel when viewed from the street; it appears to be a vacant lot. The Board was not persuaded that the subject property is an integral part of the residential use of the contiguous parcel.

ORDER:

The petition is denied.

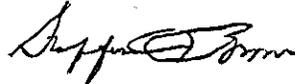
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 6th day of October 2005.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown



Lyle Hansen

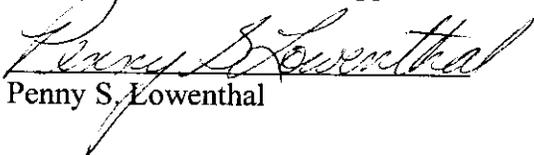


Karen E. Hart

This decision was put on the record

OCT 06 2005

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Penny S. Lowenthal

